

# Committee on Resources

## Subcommittee on Fisheries Conservation, Wildlife and Oceans

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### Witness Testimony

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**TESTIMONY OF BRIAN S. HALLMAN  
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AND SCIENTIFIC AFFAIRS  
DEPARTMENT OF STATE  
BEFORE THE  
SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE, AND OCEANS  
COMMITTEE ON RESOURCES  
MAY 19, 1998**

#### Introduction

The Department of State appreciates the opportunity to testify this morning on H.R. 3460 and H.R. 3461. These bills would approve extensions of Governing International Fishery Agreements (GIFAs) with Latvia and Poland, and would also reauthorize two important pieces of legislation that relate to U.S. participation in regional fishery conservation organizations, namely the Northwest Atlantic Fisheries Convention Act of 1995 and the Atlantic Tunas Convention Act of 1975.

The Department of State commends this Subcommittee for holding this hearing. I am also pleased to say that the Department fully supports enactment of both bills.

To assist the Subcommittee in its consideration of this legislation, I would like to supplement the information pertaining to GIFAs that is contained in the testimony of Mr. Evans, given on behalf of the National Oceanic and Atmospheric Administration. I would also like to provide the Subcommittee with updates on recent developments within the Northwest Atlantic Fisheries Organization. These recent developments, in our view, underscore the importance of reauthorizing the Northwest Atlantic Fisheries Convention Act. With respect to issues relating to reauthorization of the Atlantic Tunas Convention Act, the Department supports the views set forth in the testimony of Mr. Evans. I request that my written testimony with its two attachments be included in the record.

#### Governing International Fishery Agreements

Under the Magnuson-Stevens Fishery Conservation and Management Act, a foreign nation which seeks the opportunity for its vessels to engage in fishing operations within waters under the fishery jurisdiction of the United States must first enter into a Governing International Fishery Agreement (GIFA). The Magnuson-Stevens Act sets forth the basic terms that each GIFA must contain.

A foreign nation which has a GIFA in force with the United States is not, however, guaranteed access to U.S. fisheries resources. A GIFA is merely one precondition for such access. The other two basic preconditions are:

- a determination that surplus fishery resources exist within waters under the fishery jurisdiction of the United States; *i.e.*, that U.S. fishermen cannot harvest the total allowable catch of such resources; and
- a determination by the United States to allocate a portion of any such surplus to the foreign nation in question.

The United States first claimed fishery jurisdiction out to 200 nautical miles from our shores in March 1977, following passage of the Fishery Conservation and Management Act in 1976. Beginning in the early 1980's, we concluded GIFAs with a wide variety of foreign nations and allocated considerable quantities of surplus fishery resources to them throughout much of that decade. Attachment 1 to this testimony lists all of the foreign nations with which we have had GIFAs over the years.

During that same period, this country undertook to foster the expansion of our own fishing capacity. The number and size of U.S. vessels operating in U.S. waters grew rapidly in the 1980's. As a consequence, the amount of surplus fishery resources available to be allocated to foreign nations with GIFAs decreased dramatically. As noted in the testimony of Mr. Evans, the era of directed foreign fishing in U.S. waters basically ended in the late 1980's.

With the end of that era, most foreign nations that had concluded GIFAs chose not to renew them. I refer you again to Attachment 1 to this testimony, Part II of which lists all of the foreign nations that have decided not to pursue extensions or renewals of their expired GIFAs.

Despite the dearth of direct fishing opportunities in U.S. waters, six foreign nations nevertheless have maintained GIFA relationships with the United States: Estonia, Latvia, Lithuania, the People's Republic of China, Poland and the Russian Federation. The bills before the Subcommittee today would provide for the renewal of GIFAs with Latvia and Poland, both of which lapsed at the end of 1997.

One of the primary reasons why these nations seek to maintain their GIFAs is the possibility of joint venture fishery operations in U.S. waters and internal water processing operations (IWPs) in state waters. The Department of State supports joint venture operations and IWPs to the extent that such fishing operations are in the interest of the U.S. fishing industry. We believe that these operations provide valuable economic opportunities and help displaced fishermen weather the difficult stock rebuilding efforts in other fisheries.

In accordance with provisions of the Magnuson-Stevens Fishery Conservation and Management Act, the regional fishery management councils recommend to the Secretary of Commerce what quantity of fish, if any, is to be made available for foreign joint-venture processing operations. These specifications are made for each fishery, and represent the total quantity of fish for which the joint venture partners may apply. For 1998, there is a total of 40,000 metric tons (mt) of Atlantic sea herring and 15,000 mt of Atlantic mackerel available for joint venture processing; these are the only species currently available for joint ventures in U.S. waters.

As noted above, having a GIFA in place is only one of several preconditions for foreign fishing operations in U.S. waters, including joint venture fishing operations. The foreign nation which wishes to engage in a joint venture must also work out a business arrangement with a U.S. fishing industry partner. The foreign nation must designate a U.S. General Agent to represent it in legal matters related to the joint venture fishery, such as soliciting a permit and paying permit and observer fees on behalf of the foreign nation. The foreign nation must also identify a Designated Representative, who is responsible for receiving and submitting reports and other information concerning fishing by the foreign vessels. The responsibility of

paying permit and observer fees rests with the foreign nation. The embassy of the foreign nation must submit a completed joint venture fishing application to the Department of State, Office of Marine Conservation, and pay an application fee of \$354 per vessel to National Marine Fisheries Service (NMFS). After determining that the application fee has been paid, the Department of State forwards the application to the appropriate regional fishery management council, the U.S. Coast Guard, and NMFS. The appropriate regional fishery management council(s) then have 45 days to recommend approval or disapproval of the application. During this time, comments on applications may be submitted by any interested party. In making a recommendation to approve permits, the appropriate fishery management council(s) may also identify specific conditions and restrictions to be attached to any permits issued, including: what kind of fish can be caught, how many fish can be caught, and how to harvest them. With respect to the foreign processing vessel, no fishing may take place until all the necessary observer and license fees are paid, and the required permits issued. NMFS will notify the foreign government through the Department of State when the joint venture fishing operation may begin.

In the case of IWPs, the Atlantic States Marine Fisheries Commission has allocated 80,000 mt of Atlantic Sea herring for the 1998-1999 period. The Magnuson-Stevens Act provides that the owner or operator of the foreign vessel applies to the Governor of the State in which such operations will take place. The Governor, however, may not grant permission for a foreign fishing vessel to engage in IWP operations for a fishery which occurs in the waters of more than one state or in the EEZ, except after consulting with the appropriate council and the Atlantic States Marine Fisheries Commission and considering any comments received from the Governor of any other state where the fishery occurs. In addition, the Governor may not grant permission for an IWP operation if it is determined that fish processors within the state have adequate capacity, and will use such capacity to process all of the harvested fish from that fishery that is landed in the state.

For 1998, we have received joint venture processing applications from Estonia, Lithuania and Russia. Of these, only the applications for vessels from Estonia and Lithuania resulted in actual joint venture processing operations. Thus far in 1998, there have been no IWP operations in state waters.

Because these joint venture operations benefit the U.S. fishing industry as well as our foreign partners, the Department of State fully supports the legislation to extend the GIFAs with Latvia and Poland.

### **Northwest Atlantic Fishery Organization (NAFO)**

With the passage of the Northwest Atlantic Fisheries Convention Act in 1995, the United States became a Contracting Party to the Northwest Atlantic Fisheries Organization (NAFO). Since then, we have attended two annual meetings and numerous meetings of technical working groups.

The purpose of NAFO is to promote the conservation and optimum utilization of the fishery resources of the Northwest Atlantic area within a framework appropriate to the regime of extended coastal State jurisdiction over fisheries established under the 1982 United Nations Convention on the Law of the Sea, and to encourage international cooperation and consultation with respect to these fisheries.

The NAFO Convention Area covers a wide portion of the Northwest Atlantic Ocean, including areas within the jurisdiction of four Northwest Atlantic Coastal States, *i.e.*, the United States, Canada, Denmark (with respect to Greenland) and France (with respect to St. Pierre and Miquelon), from North Carolina to the Arctic. NAFO conservation and management measures apply, however, only in the high seas portion of the Convention Area, which is referred to as the Regulatory Area. The other members of NAFO include

Bulgaria, Canada, Cuba, Denmark (in respect of the Faroe Islands and Greenland), Estonia, the European Union, France (in respect of St. Pierre and Miquelon), Iceland, Japan, Republic of Korea, Latvia, Lithuania, Norway, Poland, Romania and the Russian Federation. Within the organization the United States is a member of the General Council and the Fisheries Commission. In addition, our scientists are active participants in the NAFO Scientific Council.

Presently, six fish stocks managed by NAFO are under moratoria and six others are managed by quota or, in the case of shrimp in Division 3M, through an effort limitation measure. Like the groundfish stocks in New England, the most valuable stocks in the NAFO area are undergoing a difficult rebuilding period. As a result of the poor status of these stocks, the United States has only received modest quota allocations of 90 mt of redfish in Division 3M, 100 fishing days of effort by one vessel for shrimp in Division 3M and 2,000 mt of squid in Subareas 3 and 4. We expect to receive more sizable allocations of stocks of interest to U.S. fishermen as the NAFO stocks recover.

The key topics which currently confront NAFO include:

- implementation of the precautionary approach to fisheries management,
- adoption of a vessel monitoring system and observer system to improve enforcement and compliance,
- revision of the system for allocating quotas, and
- provision of greater transparency in the work of the organization, particularly by enhancing the participation of intergovernmental and non-governmental organizations.

Although the United States is a relatively new member of NAFO, we are playing a leading role in each of these matters.

Recently, NAFO was successful in adopting a scheme to deal with the fishing activities of vessels from non-contracting parties. While the number of non-contracting party vessels sighted fishing in the NAFO Regulatory Area has decreased, the activities of these vessels nonetheless diminish the effectiveness of NAFO conservation and management efforts. For six years NAFO struggled unsuccessfully to develop a means to deal with these rogue vessels. Then, in 1996, at our first annual meeting as a Contracting Party, the United States was asked to assume the chairmanship of the committee charged with this responsibility. Over the course of several intersessional negotiating sessions we worked closely with our NAFO partners to develop a scheme for dealing effectively with fishing by vessels of non-contracting parties. In brief, the scheme seeks to limit the ability of non-contracting party fishing vessels, sighted operating in the NAFO Regulatory Area, from landing or transshipping fish in the ports of NAFO members. The NAFO General Council adopted the scheme in September 1997.

For your convenience, I have attached a copy of the "Scheme to Promote Compliance by Non-Contracting Party Vessels with the Conservation and Management Measures established by NAFO" as Attachment 2 to this testimony. I am also pleased to report that, shortly after NAFO adopted this scheme, the Contracting Parties to the Commission for the Conservation of Antarctic Marine Living Resources adopted a modified version of the NAFO scheme to deal with non-contracting party fishing activities in the Southern Ocean surrounding Antarctica. Furthermore, the members of the Northeast Atlantic Fisheries Commission will also soon adopt a scheme modeled on the NAFO experience. Because non-member fishing constitutes a major problem in fisheries conservation, these are significant developments in our quest to improve the conservation and management of international fisheries.

Besides our efforts to deal with non-contracting parties, the United States is also playing a leadership role

in NAFO in the Scientific Council, in other committees and working groups and as Vice Chairman of the Fisheries Commission. This degree of involvement is remarkable for such a recent member, and can only further our stature in the organization and improve our ability to influence the organization consistent with our interests. While much remains to be done to restore the fish stocks of this region, it is essential that the United States continue to be an active and strong participant in the work of NAFO.

### **Conclusion**

In conclusion, Mr. Chairman, I would like to reiterate the support of the Department of State for passage of H.R. 3460 and H.R. 3461. I would be pleased to try to answer any questions that the Subcommittee might have.

Thank you again for this opportunity to testify.

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